

REMARKS/ARGUMENTS

1. Claim Amendments

The Applicant has amended claims 39 and 40. Applicant respectfully submits no new matter has been added. Accordingly, claims 22-41 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2. Claim Rejections – 35 U.S.C. § 101

The Examiner rejected claims 39 and 40 under 35 U.S.C. § 101 as being directed towards descriptive material per-se and therefore do not constitute patentable subject matter. The Applicant has amended claims 39 and 40 to direct them towards statutory subject matter.

3. Claim Rejections – 35 U.S.C. § 102(b)

Claims 22-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Ferrat et al. (US 2005/0055382) hereafter Ferrat. The Applicants respectfully traverse the rejection of claims 22-41.

Claim 22 of the present invention provides, in pertinent part:

detecting whether the stored data in the mobile terminal includes one or more corrupted memory blocks having stored therein data that is inconsistent with the first data version; and

repairing, when generating the updated data version, any such detected corrupted memory block.

Claim 37 of the present invention provides, in pertinent part:

processing means adapted to generate the updated data version from the stored data and from the received differential update instructions, wherein the processing means is further adapted to:

generate information from the stored data indicative of the presence or absence of one or more corrupted memory blocks having stored therein data that is inconsistent with the first data version; and

communicate the generated information via the communications means to the data processing system for generating the differential update instructions.

Similar claim elements are found in independent claims 38, 39 and 40.

As stated in MPEP § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit, as detailed below, that Ferrat does not, either expressly or inherently, teach or suggest the cited elements above.

Ferrat, which discloses a UNISYNC system is not equivalent to, and does not disclose, the above cited elements of the present invention. The UNISYNC system of Ferrat allows for bi-directional synchronization of multiple version of a database. The synchronization scheme of Ferrat uses "delta changes" in the sense that only the tables that are modified are transferred, and not the complete database. This is entirely different from the delta update used in the present invention. As an initial matter, the present invention operates at a binary level and hence supports any data structure, including executables.

Furthermore, unlike in Ferrat, the present invention is not directed to synchronization between two versions of a data file. For example, when upgrading from Windows XP to Windows Vista, one does not refer to the process as "the user *synchronizing* the system with the Vista installation CD". In the present invention, a unique update package is created for a system with corrupts blocks. Referring back to the Windows example, this would be equated to Microsoft providing a specific, tailor made Windows Vista upgrade CD for each broken Windows XP installation.

As noted above, Ferrat is not directed to synchronization or conflict resolution. While the UNISYNC system of Ferrat has support for conflict resolution where several users have modified the same table, some logic or manual assistance must be provided in order to create a coherent distributed database. In contrast, the present invention

does not work on tables in a database, but directly on the flash memory where the image is updated "in-place". A delta update in the present invention not only means that the complete image is not transferred, it more importantly refers to the fact that the present invention reuses and reorganizes the data already on the device through a series of steps to transform the existing image into the updated one.

If the technique of the present invention were used in the database update in the UNISYNC application of Ferrat, the updated tables would not be transferred, but rather delta files for updating the table would be transferred. In other words, it would transform the data already present in the table and upgrade it byte by byte.

Examiner states that "it is clear from the disclosure of Ferrat that a 'corrupt memory block' would fall under an 'error [or] conflict between synchronized data'". Applicant respectfully disagrees. As noted above, the present invention does not deal with synchronization. Rather, in the present invention a delta based update package is created and because such a package depends on the data currently present on the device, it must be ensured that that data is not corrupt. If it is, a tailor made update package must be created for the specific device.

In the present invention, dedicated upgrade installations are created for systems with corrupt memory. Unlike Ferrat, there is no need to resolve any conflict and there is no merging of data from several sources.

4. Claim Rejections – 35 U.S.C. § 103 (a)

Claims 27-28 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrat. As noted above, Ferrat fails to disclose all of the elements of the present invention. Nor are the missing elements very well known and common to those skilled in the art. Claims 27-28 depends indirectly from claim 22 and recite further limitations in combination with the novel elements of claim 22. Therefore, the allowance of claims 27-28 is respectfully requested. Claim 41 depends from claim 37 and recites further limitations in combination with the novel elements of claim 37. Therefore, the allowance of claim 41 is respectfully requested.

Claims 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrat in further view of Kocher et. al., US 6,289,455 (Kocher). As noted above, Ferrat fails to disclose all of the elements of the present invention. Kocher fails to remedy the deficiencies of Ferrat with respect to the missing elements. Claims 32-36 depend indirectly from claim 22 and recite further limitations in combination with the novel elements of claim 22. Therefore, the allowance of claims 32-36 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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Date: September 3, 2008

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